

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

EVDOKIA NIKOLOVA,
Plaintiff,

v.

UNIVERSITY OF TEXAS AT AUSTIN,
Defendant.

§
§
§
§
§
§
§

Civil Action No.: 1:19-CV-00877

DEFENDANT’S SECOND UNOPPOSED MOTION FOR EXTENSION OF TIME

TO THE HONORABLE JUDGE ROBERT PITMAN:

Defendant The University of Texas at Austin (“Defendant”) respectfully requests an additional one-week extension to its dispositive motion reply deadline, which is presently set for November 5, 2021. Undersigned Counsel has exercised diligence in prosecuting the defense of this case, but the events described in this motion have created the need for additional time. In further support, Defendant would respectfully show the Court as follows:

STANDARD OF REVIEW

“When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion if . . . a request is made before[] the original time or its extension expires.”¹ The good cause standard requires “the party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.”² “Rule 6(b)(1)(A) gives the court wide discretion to grant a request for additional time that is made prior to the expiration of the period originally prescribed or prior to the expiration of the period as

¹ FED. R. CIV. P. 6(b)(1); *see also* FED. R. CIV. P. 16(b)(4) (applying the same good cause standard for modifications to a schedule).

² *S & W Enters., L.L.C. v. Southtrust Bank of Ala., NA*, 315 F.3d 533, 536 (5th Cir. 2003).

extended by a previous order.”³ “[A]n application for extension of time under Rule 6(b)(1)(A) normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.”⁴

ARGUMENTS & AUTHORITIES

Defendant’s Reply in Support of its Motion for Partial Summary Judgment is currently due on November 5, 2021. Defendant seeks an additional one-week extension, creating a new deadline of November 12, 2021. Defendant’s Lead Counsel was able to re-book a vacation that he had previously cancelled, and last week Undersigned Counsel was tasked with immediate and significant litigation demands in *State of Texas v. Biden*, Civ. A. No. 3:21-cv-309, pending in the U.S. District Court for the Southern District of Texas. This extension is not sought for delay, and a one-week extension is not intended to—and should not—affect the March 7, 2022 trial date. Dkt. #43. Plaintiff’s counsel is unopposed to this request.

PRAYER

Defendant respectfully submits that the circumstances described in this motion constitute good cause. As such, Defendant respectfully asks the Court for an additional one-week extension on the dispositive motion reply deadline in this case. If granted, the dispositive motion reply deadline would be moved to November 12, 2021. This motion is unopposed.

³ Charles Alan Wright & Arthur R. Miller, 4B Fed. Prac. & Proc. Civ. § 1165 (4th ed. April 2017).

⁴ *Id.*

Respectfully submitted,

KEN PAXTON

Attorney General of Texas

BRENT WEBSTER

First Assistant Attorney General

GRANT DORFMAN

Deputy First Assistant Attorney General

SHAWN COWLES

Deputy Attorney General for Civil Litigation

THOMAS A. ALBRIGHT

Chief for General Litigation Division

/s/ Amy S. Hilton

AMY S. HILTON

Assistant Attorney General

Texas State Bar No. 24097834

amy.hilton@oag.texas.gov

BENJAMIN L. DOWER

Lead Counsel

Assistant Attorney General

Texas State Bar No. 24082931

benjamin.dower@oag.texas.gov

Office of the Attorney General

General Litigation Division

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

(512) 463-2120 / Fax (512) 320-0667

COUNSEL FOR UT AUSTIN

CERTIFICATE OF CONFERENCE

I hereby certify that on Sunday, October 31, 2021, I sent an email to Counsel for Plaintiff Evdokia Nikolova requesting their opposition status to this motion. Plaintiff's Counsel indicated that they are unopposed to this motion.

/s/ Amy S. Hilton
AMY S. HILTON
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2021, a true and correct copy of the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ Amy S. Hilton
AMY S. HILTON
Assistant Attorney General